

of the attorney, the following items may be sent directly to the party, with copies to the attorney:

- Notices pursuant to an Administrative Law Judge decision, Board Order, court judgment, or settlement agreement
- Requests for certification of posting
- Instructions concerning the details of compliance

11844.3 Correspondence by E-mail

OM Memo 03-74 provides specific guidance concerning the type, form, and manner of E-mail communications between Regional Offices and outside parties, including transmission of certain documents. In order to ensure proper use of E-mail, OM Memo 03-74, and any subsequent memoranda in this evolving area, should be consulted.

11846 Filing and Service by Parties

Filing by hand delivery, by registered or certified mail, or by private delivery service satisfies the requirements for filing with the Board, the General Counsel, Regional Offices, or Administrative Law Judges. Sec. 102.114, Rules and Regulations. In addition, filing electronically or by facsimile transmission may be used in certain circumstances, as set forth below.

11846.1 Facsimile Filing Permitted

Parties may file unfair labor practice charges, representation petitions, objections to elections, and requests for extension of time by facsimile transmission, if transmitted to the facsimile machine of the appropriate office of the Agency. Receipt of such facsimile transmission by the Agency constitutes filing. Sec. 102.114(f), Rules and Regulations.

11846.2 Facsimile Filing Permitted only with Consent

The filing by facsimile transmission of documents other than those set forth above, except those specifically prohibited as set forth in Sec. 11846.3, will be accepted by the appropriate office of the Agency, only with the advance permission of the receiving office. Sec. 102.114(g), Rules and Regulations.

11846.3 Facsimile Filing Prohibited

Sec. 102.114(g), Rules and Regulations prohibits the filing by facsimile of a showing of interest, requests for review, and appeals from dismissal of petitions in representation cases; appeals from dismissal of unfair labor practice charges; objections to settlements; answers to complaints; exceptions, cross-exceptions and briefs; Equal

Access to Justice Act (EAJA) applications and a variety of motions. See Sec. 102.114(g) for a complete list of exclusions from filing by facsimile transmission.

11846.4 Electronic Filing and Service

The Agency's policies with respect to filing of documents electronically, which is periodically reviewed and revised, can be found under "E-Gov" on the National Labor Relations Board web site: www.NLRB.gov. See also 102.114(i) Rules and Regulations.

11846.5 Service by Party on Other Parties

Where service of documents by a party on other parties is required, such service may be made personally or by registered mail, certified mail, regular mail, or by private delivery service. Service of documents by a party on other parties by any other means, including facsimile transmission, is permitted only with the consent of the party being served. In general, service on all parties shall be in the same manner as that utilized in filing the document with the Board or in a more expeditious manner. See Secs. 102.114(a) and (h), and (i) Rules and Regulations for specific applications.

11850–11860 CASE FILES AND DOCUMENTARY EVIDENCE

11850 Case Files

The case file should reflect all action taken in the investigation and be kept up to date. It must be sufficiently complete and current to permit appropriate supervisory review on an ongoing basis and, if necessary, to allow another agent to continue the investigation with a minimum of duplication.

11850.1 Organization of Files

Files should be so organized that specific material may be easily found. No special sectional breakdown is required. The need for organization will often depend on the case and on the extent of the work already done, but a desirable breakdown would consist of sections devoted to the (1) formal (public) documents, (2) memos and correspondence, (3) affidavits and statements, and (4) other documents. Normally, the affidavits and statements should be arranged alphabetically and other documents chronologically.

11850.2 File Should Contain Complete History of Case

There should be no gaps in the case file. Where an item inserted in the file speaks for itself, it is unnecessary to recite the surrounding facts in a memo, but, for example, an unsuccessful interview attempt should be documented in a memo; in this way, the file will show the point has not been overlooked.

From time to time, if the case is long and involved, the Board agent assigned should, by memo, bring the circumstances up to date and signify further steps to be taken.

11860 Documentary Evidence

The term documentary evidence means any paper whether in written, printed, graphic, or other visual form, containing facts germane to the case that might be necessary to introduce at a hearing. Documentary evidence includes correspondence to the Regional Office, other letters, records, charts, pictures, affidavits, and other signed statements.

All documentary evidence should be retained in the original form if possible; otherwise, such evidence should be photocopied.

Unless the source and circumstances of receipts of a document are self-explanatory, they should be recited in a file memorandum.

No marks should be made on documentary evidence. Notes, questions, remarks, or instructions should be inserted on separate sheets and not on the face of the document. This is particularly applicable to the practice that sometimes exists of writing on the document the name(s) of the person(s) in the Regional Office to whom it is to be routed; separate routing slips should be used for this purpose.

11870 REPORTING SERVICE**11870 Official Reporting Service**

Contracts, based on competitive bids, are awarded annually for reporting the Agency's hearings. Regional Directors and officers-in-charge are notified in advance of the beginning of the fiscal year as to the selected contractor for the coming year and the rates and fees stipulated under the contract. The contractor notifies Agency field offices of its designated local subcontractor or agent for reporting service in each field office.

11870.1 Notification of Hearing Schedule

Notification of all hearing schedules must be sent to both the contractor and the local subcontractor. It is very important that this information be issued promptly and accurately in every case. The current contract should be consulted for time limitations for notification of hearing schedules.

11870.2 Coordination with the Local Reporter

Regional Offices should cooperate with the reporting service to the extent possible to coordinate the number and locations of hearings in order to permit the economic use of the service's resources without sacrificing the Agency's commitment to quality and timely service to the public.

11870.3 Scheduling Hearings

Although there are other considerations relative to the scheduling of hearings, the Regional Office should make an effort to schedule hearings in the Regional, Subregional, or Resident Office city since this usually results in better delivery time of the transcript, savings in staff time and travel expense and, under some contracts, a lower reporting rate.

11870.4 Timely Notification of Cancellations or Postponements

Pursuant to the court reporting contract, the Agency is charged a cancellation fee if the reporting service is not notified of the cancellation or postponement of a hearing sufficiently in advance of the hearing date. These fees can usually be avoided by notification to the reporting service by a designated time on the last business day before the hearing date. Since these fees constitute a significant expense, all staff members, particularly those involved in obtaining election stipulations, must be alert to notify the appropriate Regional Office personnel of any cancellations or postponements.

The reporting service and/or subcontractor should be notified of such action by telephone as soon as possible. The current reporting contract should be consulted for time limitations for notification of cancellations or postponements.

11870.5 Report of Obligated Cost of Hearing, Form NLRB-4237

It is the responsibility of the hearing officer in an R case and the trial attorney in a C case to complete this form immediately upon the close of the hearing or as of the last day of the month, if the hearing continues into the subsequent month. Likewise, if the hearing is postponed or canceled at the hearing site, this form must be completed by the respective hearing officer or trial attorney.

A hearing that is adjourned for 5 or more calendar days is considered a complete hearing for purposes of attendance fees. Therefore, in such situations, this form must be completed and submitted to the Regional Office immediately upon such adjournment. A new Form NLRB-4237 should be completed for the reopened hearing. If the hearing officer or trial attorney is away from the Regional Office on the last day of the month, he/she should inform the Regional Office of the estimated cost of hearing through that date.

11870.6 Sales of Copies of Transcript

A party seeking a copy of the transcript should order it from the reporting service. Such copy must be provided to the party at the actual cost of duplication. Pub. L. 92-463. Care must be exercised with respect to the use by the parties of Regional Office copies of the transcript. Although the transcript is part of the formal file and as such is accessible to the public, use of the transcript should not be volunteered. When a request is received to read or hand copy the Regional Office copy, it should be made promptly available under such circumstances as will not delay Board personnel in processing the case. Loan of the transcript for use outside the office is not permitted.

11870.7 Reporting Service Compliance with Contract

Inasmuch as the service provided by the court reporter is vital to many of the most important aspects of Agency work, it is imperative that the quality of the reporting service's performance be carefully monitored. Records should be maintained as to late arrival of reporters, poor or inaccurate transcripts and inappropriate or unprofessional behavior by reporters. Any such deficiencies should be relayed promptly to Division of Administration, Facilities and Services Branch.

11870.8 Other Contract Provisions

The current reporting service contract contains information relating to other provisions, such as:

- Fees—attendance fees, cancellation fees (for cancellations and postponements), and additional service fees
- Delivery of transcripts, appropriately formatted diskettes and copies—ordinary copy, expedited copy, prompt copy, and daily copy
- Timely delivery of transcripts
- Liquidated damages for delay in delivery of transcripts
- Receipt and processing of transcripts and exhibits
- Retention of stenographic notes and transcripts

11880–11886 COMMUNICATIONS AND TRAVEL**11880 Communication with Headquarters**

If a direct communication is received by a Regional Office from another part of the Agency on a matter that should properly be routed through the Division of Operations-Management, answers addressed to the individual initiating the communication should be sent through Operations-Management, along with copies of the original communication.

In submitting other than routine material to Operations-Management, such material should be identified.

Each of the Assistant General Counsels in Operations-Management is the focal point of contact between Washington and the Regional Offices assigned to the Assistant General Counsel. Serving as the General Counsel's representative, the Assistant General Counsel exercises general supervision over the Regional Office's casehandling, performance, personnel, and administration. The Assistant General Counsel participates in Washington agendas involving regional cases and assists in handling matters or problems involving the Assistant General Counsel's Regional Offices.

11881 Communication with the Board

All communications that are sent directly to the Board should be addressed to the Office of the Executive Secretary.

11882 Travel Beyond Regional Boundaries

Board agents are authorized to travel within their Region and to geographic areas in adjoining Regions in the performance of official duties.

11884 Communication With Other Agencies

Normally, a Regional Office's contacts with other agencies need not be cleared through the Division of Operations-Management. Thus, the Regional Office may directly contact field offices of other agencies in order to procure information (such as, in connection with an actual case) that is available through such offices. Likewise, Regional Offices, within the limitations of Secs. 102.117 and .118 of the Rules and Regulations and Secs. 11820–11828, should cooperate in furnishing to offices of other Government agencies such information as may be requested by them. With respect to possible violations of other Federal statutes, see Sec. 10070.

However, in limited circumstances, Regional Offices must seek clearance from Operations-Management before referral to other agencies, such as when the potential violation concerns possible criminal conduct related to Board proceedings (e.g., fraudulent authorization cards, perjury, or obstruction of justice in connection with NLRB proceedings). See Sec. 10070. Similarly, the clearance requirement applies prior to referral when alleged unethical conduct of attorneys is involved. See Secs. 10058.6 and 11754.2(a).

For more specific guidance pertaining to Occupational Safety and Health Act matters, refer to GC Memos 75-29, 76-14, and 79-4. With respect to the Mine Safety and Health Act, see GC Memo 80-10. See also Sec. 10070.2.

11886 Congressional Inquiries**11886.1 Reply by Regional Directors**

Regional Directors have the authority to respond directly to members of Congress concerning inquiries about a status of a case or questions concerning the handling of a case. Courtesy copies of such letters are forwarded to the Division of Operations-Management so that Headquarters might be fully apprised of all matters in which congressional interest has been expressed.

11886.2 Reply by the Division of Operations-Management

Congressional inquiries concerning the following matters are referred to the Division of Operations-Management for consideration and response:

- Multiregional cases
- Regional or general operations casehandling procedures
- Cases pending in the Division of Advice

- Cases of national importance or widespread interest
- Proposed legislation with respect to changes in our Act
- The establishment of new Regional, Subregional, or Resident Offices
- The relocation of regional boundaries
- A change in the status of an existing office
- Any congressional inquiries of such a nature that a reply should be more appropriately made by the General Counsel